

FORM 5E

Rule 5.02(2), 53.02(3)

IN THE SUPREME COURT OF VICTORIA
[INSERT DIVISION]
[INSERT LIST]

S ECI

BETWEEN

Plaintiff

and

Defendant

[or if the plaintiff does not know the name of any person in occupation]

BETWEEN

Plaintiff

and

(The plaintiff does not know the name of any person in occupation to make
defendant)

Defendant

ORIGINATING MOTION FOR RECOVERY OF LAND UNDER ORDER 53

Date of Document:

Solicitors Code:

Filed on behalf of:

DX:

Prepared by:

Telephone:

Ref:

Email:

TO THE DEFENDANT AND TO EVERY PERSON IN OCCUPATION OF THE LAND AT
[description of land]*

[or where there is no defendant]

TO EVERY PERSON IN OCCUPATION OF THE LAND AT *[description of land*]*

TAKE NOTICE that this proceeding by originating motion has been commenced by the plaintiff
for the recovery of land

at..... Further
particulars of the claim appear in the affidavit made in support of the claim. A copy of the affidavit
and of any exhibit referred to therein is served with this originating motion.

AND TAKE NOTICE that the plaintiff will apply to the Supreme Court in Court No. [insert address or other location details of hearing] on at a.m. [or p.m.] or so soon afterwards as the business of the Court allows. At that time the Court may hear an application by the plaintiff for judgment.

IF YOU ARE NAMED AS DEFENDANT AND INTEND TO DEFEND THIS PROCEEDING you must:

- (a) give notice of your intention by filing an appearance on or before the day specified above;
and
- (b) attend before the Court as specified above.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

- (a) filing a "Notice of Appearance" with the Prothonotary by submitting the Notice of Appearance for filing electronically. See www.supremecourt.vic.gov.au; and
- (b) on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff's address for service, which is set out at the end of this originating motion.

IF YOU FAIL to file an appearance on or before the day specified above or to attend before the Court on that day, the plaintiff **MAY OBTAIN JUDGMENT AGAINST YOU** without further notice.

IF YOU ARE IN OCCUPATION OF THE LAND AND ARE NOT NAMED AS DEFENDANT you may attend before the Court in person or by your counsel or solicitor on the day and at the time and place specified above and apply to be made a defendant.

FILED *[insert date]*

Prothonotary

1. Place of trial—

(If no place of trial is specified, trial will be in Melbourne.)

2.** This originating motion was filed—

(a) by the plaintiff personally;

(b) for the plaintiff by [name or firm of solicitor], solicitor, of [business address of solicitor];

(c) for the plaintiff by [name or firm of solicitor], solicitor, of [business address of solicitor] as agent for [name or firm of principal solicitor], solicitor, of [business address of principal].

3. The address of the plaintiff is—

4. The address for service of the plaintiff is—

[Where the plaintiff sues by a solicitor, the address for service is the business address of the solicitor or, where the solicitor acts by an agent, the business address of the agent. Where the plaintiff sues without a solicitor, the address for service is stated in 4.]

5. The email address for service of the plaintiff is—

6. *[If there is a defendant]* The address of the defendant is—

* *[Strike out this paragraph where order made fixing time for appearance and substitute "THE PROPER TIME TO FILE AN APPEARANCE is within days after service on you of this writ."]*

** *[Complete or strike out as appropriate.]*